

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

MODA INGLESIDE OIL TERMINAL, LLC

Plaintiff,

V.

**M/T RIVERSIDE its engines, tackle, etc.,
*in rem***

Defendant.

CIVIL ACTION NO. 2:21-cv-39

Admiralty Fed. R. Civ. P. 9(h)

PLAINTIFF'S ORIGINAL VERIFIED COMPLAINT

Moda Ingleside Oil Terminal, LLC (“Moda”) files this Original Verified Complaint against the M/T RIVERSIDE, its engines, tackle, etc., *in rem*, (“Vessel”), alleging as follows:

I. JURISDICTION AND VENUE

1.1 This is a suit for a maritime tort and a maritime lien within the admiralty and maritime jurisdiction of the United States and this Honorable Court in accordance with Section 1333 of Title 28 of the United States Code, Rule 9(h) of the Federal Rules of Civil Procedure, Rule C of the Supplemental Rules for Certain Admiralty & Maritime Claims, and Section 31301 of Title 46 of the United States Code.

1.2 Venue is proper in this Court under 28 U.S.C. § 1331(b) because a substantial part of the events or omissions giving rise to the claim occurred in the Southern District of Texas and a substantial part of the property that is the subject of the action is situated in the Southern District of Texas. Additionally, the Vessel is currently berthed in Ingleside, Texas, which is within the Southern District of Texas.

II. PARTIES

2.1 Moda is a limited liability company duly organized and existing under and by virtue of the laws of the State of Delaware with its principal office located in Harris County, Texas.

2.2 The Vessel, IMO No. 9412464, is a crude oil tanker currently within the Southern District and currently within the jurisdiction of this Honorable Court.

III. FACTS

3.1 On or around March 15, 2021, the Vessel, then outbound, struck and caused extensive damage to Moda's dock at the Moda Ingleside Energy Center in Ingleside, Texas.

3.2 At the time of the allision, and at all other relevant times, the Vessel was in the navigable waters of the United States of America, within the Southern District of Texas.

IV. CLAIMS

4.1 The Vessel is liable for Moda's damages in that such damages resulted from and were caused by negligent acts and/or omissions of the Vessel, its officers, crew, agents, representatives, and/or employees. These negligent acts and/or omissions include, without limitation, the following;

- (a) failing to use reasonable care in preventing the allision;
- (b) failing to use reasonable care in limiting the severity of the allision;
- (c) alliding with the stationary dock. Moda therefor invokes the *Oregon Rule*. *See The Oregon*, 158 U.S. 186, 197 (1895);
- (d) failing to exercise reasonable care in monitoring the surrounding conditions;
- (e) failing to exercise reasonable care in compensating for the surrounding conditions;
- (f) failing to maintain a safe speed;
- (g) failing to keep a proper lookout; and

(h) failing to properly maintain the Vessel.

4.2 Each of the foregoing acts or omissions constitute negligence that proximately caused the incident and Moda's damages and the Vessel is liable for these acts or omissions.

4.3 Moda invokes and relies upon the doctrine of res ipsa loquitur because the character of the incident was such that it would not have happened in the absence of negligence, and the instrumentality causing the occurrence exclusively was within the Vessel's control.

4.4 Each of the Vessel's acts and/or omissions was a proximate cause of the allision, and of actual, incidental, and consequential damages to Moda. Those damages include, but are not limited to, response costs, reasonable and necessary costs and expenses for surveys, inspections, repairs, lost production and business interruption, loss of use, loss of profits, claimed demurrage.

4.5 At all times material, Moda mitigated its damages in a commercially reasonable manner.

V. PRAYER

5.1 Moda respectfully prays:

- (a) That process in due form of law, according to the practice of this Honorable Court in causes of admiralty and maritime jurisdiction, may issue against the Vessel, her engines, tackle, etc., and that all persons owning or claiming any interest in the Vessel may be cited to appear and answer the matters aforesaid, and that the Vessel, her engines, tackle, etc., shall be seized and may be condemned and sold to pay the demands of Moda aforesaid, together with interest, fees and costs,
- (b) That a Rule C lien may be declared to be a valid and subsisting lien upon the Vessel, her engines, tackle, etc., and prior and superior to the interest, liens and claims of any and all persons, firms or corporations whatsoever.

- (c) That judgment be issued against the Vessel, and her engines, tackle, apparel, appurtenances, etc., *in rem*, in the full amount demanded under this Complaint, as it may be amended, plus interest, charges, the cost of seizure and custodian expenses, other costs and attorneys' fees, as well as any and all other amounts required to be paid to Moda as a result of its damages described above;
- (d) That in due course, the Vessel be ordered sold, and that the proceeds of the sale be applied to the amounts owed to Moda; and
- (e) That Moda have such other and further relief as in law, admiralty, and justice it may be entitled to recover.

Respectfully submitted,

/s/Jack C. Partridge
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**ATTORNEY FOR PLAINTIFF,
MODA INGLESIDE OIL TERMINAL, LLC**

OF COUNSEL:

ROYSTON, RAYZOR, VICKERY & WILLIAMS, L.L.P.

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Defendant.

VERIFICATION AND DECLARATION OF JOHN “JACK” C. PARTRIDGE

My name is John “Jack” C. Partridge. I am over the age of 21, of sound mind, and have never been convicted of a felony. I am a lawyer representing MODA INGLESIDE OIL TERMINAL, LLC (“Moda”) and am authorized to make this verification and declaration on behalf of Moda.

I have read Moda's Original Verified Complaint and know the contents thereof contained in Section III. Based upon my own personal knowledge and records kept in the ordinary course of business, the information contained in Section III of said Complaint is true and correct.

I declare under penalty of perjury that the foregoing is true and correct. Executed on March 15, 2021.

/s/ John “Jack” C. Partridge
John “Jack” C. Partridge